

ORDERED.

Dated: October 12, 2018



Catherine Peek McEwen
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re:

Leroy Sylvester Carr
Debtor.

Case No.: 8:13-bk-11921-CPM
Chapter: 13

**ORDER INDEFINITELY SUSPENDING
ATTORNEY MARK PHILIP STOPA AND PROHIBITING
THE DEBT RELIEF AGENCY F/K/A STOPA LAW FIRM, P.A.,
N/K/A STAY IN MY HOME, P.A. FROM PROVIDING ANY BANKRUPTCY
ASSISTANCE SERVICES OR ACTING AS A DEBT RELIEF AGENCY**

THIS CASE came on for hearing on September 26, 2018, at 3:30 p.m., on the United States Trustee's Expedited Motion Seeking Relief Relating to the Florida Supreme Court's Suspension of Attorney Mark Philip Stopa, and Seeking Additional Relief.¹ In the motion, the U.S. Trustee alleges that Stopa and his law firm should be immediately suspended because Stopa became ineligible to practice law in the State of Florida;² stopped providing bankruptcy assistance services to his chapter 13 clients; failed to notify this Court, the trustees, opposing parties, or his bankruptcy clients that he was ineligible to practice; and has subsequently filed a petition for disciplinary

¹ Doc. No. 133.

² *The Florida Bar v. Stopa*, SC18-1197; *see also The Florida Bar v. Stopa*, SC17-1428; and *The Florida Bar v. Stopa*, SC 16-1727.

revocation with the Florida Supreme Court.³ For the reasons set forth below, this Court concludes that it is appropriate to indefinitely suspend Stopa and his law firm, Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., from the practice of law in the United States Bankruptcy Court for the Middle District of Florida.

As background, Stopa was admitted to The Florida Bar on April 23, 2002.⁴ Afterwards, Stopa was admitted to the United States District Court for the Middle District of Florida and admitted to practice before this Court. Since being admitted to this Court, Stopa has appeared in 104 bankruptcy cases and one adversary proceeding. Of those cases, as of the date of the hearing, 14 were pending,⁵ with two chapter 13 cases still unconfirmed.⁶ This Suspension Order will address only the 12 pending chapter 13 cases. This is because the agreed upon services associated in the chapter 7 case would generally have been completed upon the entry of the debtors' discharge, and the foreclosure defense services Stopa provided the debtor-in-possession in the chapter 11 case are best addressed in that specific case under 11 U.S.C. §§ 327-331.

In the 12 pending chapter 13 cases, the debtors constitute assisted persons,⁷ and Stopa's law firm constitutes a debt relief agency.⁸ In July 2018, while 16 of his bankruptcy cases were still open, the Florida Supreme Court, acting on an emergency petition for suspension filed by The Florida State Bar, entered an emergency order suspending Stopa from the practice of law.⁹ Further,

³ *In re Petition for Disciplinary Revocation*, SC18-1332.

⁴ <https://www.floridabar.org/directories/find-mbr/?barNum=&fName=mark&lName=stopa>

⁵ See *In re Mastromarino*, 8:17-bk-03841-MGW; *In re Martin*, 8:17-bk-02892-RCT; *In re Areias*, 8:17-bk-01142-CPM; *In re Wagner*, 8:17-bk-00312-CPM; *In re Falkner*, 8:16-bk-04019-CPM; *In re Perez*, 8:14-bk-08620-CPM; *In re Carr*, 8:13-bk-11921-CPM; *In re Phillos*, 8:13-bk-09519-RCT; *In re Gacon*, 9:13-bk-15297-FMD; *In re Elgamil*, 6:17-bk-03374-CCJ; *In re White*, 6:15-bk-09973-KSJ; *In re Eckert*, 6:14-bk-13539-ABB; *In re Hart*, 6:14-bk-11737-CCJ; *In re Neel*, 6:13-bk-15600-CCJ.

⁶ *In re Martin*, 8:17-bk-02892-RCT; *In re Areias*, 8:17-bk-01142-CPM.

⁷ 11 U.S.C. § 101(3).

⁸ 11 U.S.C. § 101(12A).

⁹ See fn. 2.

Stopa failed to attend a mortgage mediation in a pending chapter 13 case and failed to notify any party to that mediation of his suspension.¹⁰

Because he was suspended from the practice of law in Florida, Stopa became ineligible to practice in this Court. Bankruptcy Local Rule 2090-1(a)¹¹ requires that “an attorney who wishes to appear or be heard as counsel for another . . . must first be admitted to practice in the United States District Court for the Middle District of Florida pursuant to Rule 2.01.” District Court Local Rule 2.01, in turn, requires attorneys admitted to practice in the Middle District of Florida to be members of good standing with The Florida Bar. Upon being suspended, Stopa is required to notify the Clerk of this Court of such disciplinary action.¹² Likewise, the Florida Supreme Court ordered Stopa to provide notice of his suspension to all of his clients, opposing counsel, and courts.¹³ But Stopa failed to notify his bankruptcy clients, opposing counsel, trustees, or this Court that he was ineligible to practice law in Florida. Stopa’s suspension from The Florida Bar is grounds alone to suspend Stopa from appearing before this Court.¹⁴

The U.S. Trustee is seeking additional relief from the debt relief agency, Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A. With the suspension of Stopa to provide legal services to his clients in bankruptcy, the debt relief agency, Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., has failed to comply with the restrictions and material requirements codified at 11 U.S.C. §§ 526(a)(1) and 526(a)(3). Due to that, the contracts for bankruptcy assistance services are void and

¹⁰ Mediator’s Report, (Doc. No. 39, *In re Areias*, 8:17-bk-01142-CPM).

¹¹ This Court promulgates its Bankruptcy Local Rules in accordance with Federal Rule of Bankruptcy Procedure 9029. And, when adopted, the Bankruptcy Local Rules constitute “a material requirement of [title 11] or the Federal Rules of Bankruptcy Procedure.” *See* 11 U.S.C. § 526(c)(2)(C), *see also* 28 U.S.C. § 2075.

¹² Bankr. L.R. 2090-1(e) and 2090-2(b).

¹³ Emer. Order Suspension, para. b, *The Florida Bar v. Stopa*, SC18-1197 (Fla., Jul.27, 2018).

¹⁴ On September 14, 2018, the Clerk of this Court entered paperless entries in the PACER dockets for the pending cases associated to Stopa, terminating Attorney Stopa as a result of the suspension by the Florida Supreme Court.

unenforceable by anyone other than the client-assisted person.¹⁵ As the contracts are void and unenforceable by the debt relief agency, it would constitute unjust enrichment were the debt relief agency to retain funds paid to it by the assisted person. Alternatively, because the debt relief agency negligently or intentionally failed to comply with §§ 526(a)(1) or 526(a)(3) with respect to a bankruptcy case, the debt relief agency would be liable for the refund of all fees, costs, expenses, and actual damages.¹⁶ And finally, these 14 pending bankruptcy cases demonstrate a clear and consistent pattern or practice of violating § 526.¹⁷

Upon a review of this Court's records as a whole, this Court is satisfied that the U.S. Trustee has met his burden of proof and persuasion and is satisfied that an order suspending Stopa and prohibiting the debt relief agency from providing any further bankruptcy assistance services or acting as a debt relief agency. Accordingly, it is

ORDERED:

1. The United States Trustee's Expedited Motion Seeking Relief Relating to the Florida Supreme Court's Suspension of Attorney Mark Philip Stopa, and Seeking Additional Relief, (Doc. No. 133), is **GRANTED** as follows:

2. Under Bankruptcy Local Rule 2090-2, the admission of Attorney Mark Philip Stopa, Fla. Bar No. 550507, to appear or be heard as counsel for another in any case or proceeding in this Court is **INDEFINITELY SUSPENDED**. As Attorney Stopa has been ineligible to practice law in the State of Florida since August 26, 2018, this **SUSPENSION** is effective immediately upon the entry of this Order.

¹⁵ 11 U.S.C. § 526(c)(1).

¹⁶ 11 U.S.C. § 526(c)(2)(A); see also 11 U.S.C. § 526(c)(2)(C) (liability for a debt relief agency who "intentionally or negligently disregarded a material requirement of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency").

¹⁷ 11 U.S.C. § 526(c)(5).

3. Attorney Stopa and Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., shall not:
 - a. Accept any new bankruptcy clients;
 - b. Appear or be heard as counsel for another in any case or proceeding in this Court;
 - c. Act as a personal representative in any bankruptcy matter or in connection with any bankruptcy case or proceeding for any estate, a guardian, trustee, or counsel to any fiduciary for any estate, guardian, or trustee;
 - d. Counsel, represent, or provide any other means of assistance or representation of any person in any potential matter governed under the jurisdiction of the Bankruptcy Code and Rules;
 - e. Prepare, draft, ghost-write, assist in the preparation or drafting, or file any papers, pleadings, or petitions to be used or filed in any bankruptcy court, except for any filings made by and for Mark Philip Stopa acting *in propria persona*;
 - f. Engage in any conduct constituting bankruptcy assistance as defined under the Bankruptcy Code and Rules, without regard to whether any compensation, payment, or other valuable consideration has been or will be agreed upon, waived, paid, or otherwise; and
 - g. Act or engage in any conduct as a bankruptcy petition preparer or debt relief agency as governed under 11 U.S.C. §§ 110 or 526-28.

4. Attorney Stopa and the law firm, Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., is **DISQUALIFIED** from his representation of any Debtor; any and all bankruptcy assistance services contracts between Attorney Stopa, the law firm; and the Debtor-clients are **VOID**, and any fees for services are **FINALLY DISAPPROVED** in the bankruptcy cases: *In re Mastromarino*, 8:17-bk-03841-MGW; *In re Martin*, 8:17-bk-02892-RCT; *In re Areias*, 8:17-bk-01142-CPM; *In re Wagner*, 8:17-bk-00312-CPM; *In re Carr*, 8:13-bk-11921-CPM; *In re Phillos*, 8:13-bk-09519-RCT; *In re Gacon*, 9:13-bk-15297-FMD; *In re Elgamil*, 6:17-bk-03374-CCJ; *In re*

White, 6:15-bk-09973-KSJ; *In re Eckert*, 6:14-bk-13539-ABB; *In re Hart*, 6:14-bk-11737-CCJ; *In re Neel*, 6:13-bk-15600-CCJ.

5. Attorney Stopa shall provide a copy of this Suspension Order to all of his bankruptcy clients, assisted persons, or prospective assisted persons that had pending bankruptcy files at any time on or after July 27, 2018. Within 30 days of the entry of this Suspension Order, Attorney Stopa shall provide proof of service of a copy of this Order upon his clients to the Clerk of this Bankruptcy Court, the United States Trustee, and The Florida Bar.

6. Attorney Stopa shall cooperate with any duly appointed Inventory Attorney or successor attorney in the proper protection of the Debtor-client(s)' rights and interest in the pending bankruptcy cases.

7. In accordance with 11 U.S.C. § 526(c)(5), Attorney Stopa and the law firm, Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., jointly and severally, shall pay \$12,000.00 in civil penalties to the U.S. Trustee, calculated at \$1,000.00 for each pending chapter 13 bankruptcy case in which Stopa failed to comply with 11 U.S.C. § 526 or disregarded the material provisions of the Bankruptcy Code, Rules, and Local Rules.¹⁸

8. Attorney Stopa is prohibited from seeking reinstatement of his privilege to practice before this Court for **SIX YEARS** from the entry date of this Suspension Order.

9. After the expiration of this Suspension Order's ban on his readmission, Attorney Stopa may seek to reinstate his privilege to practice before this Court upon a clear showing of

¹⁸ The Court takes notice that Stay In My Home, P.A. f/k/a Stopa Law Firm, P.A. filed Chapter 7 Case No. 8:18-bk-08436-RCT six days after the hearing leading to this Suspension Order. The Court finds and concludes that the entry of this Suspension Order does not violate the automatic stay in that case based on the exception found in 11 U.S.C. § 362(a)(4). *See Berg v. Good Samaritan Hospital (In re Berg)*, 230 F.3d 1165, 1167-68 (9th Cir. 2000) (sanctions imposed against debtor-attorney fall within government regulatory exception to the stay). More important, this Court "may wield its inherent power over the lawyers who practice before it." *Abdelgalel v. U.S. Atty. Gen.*, 443 Fed. Appx. 458, 462 (11th Cir. 2011) (quoting *Sahyers v. Prugh, Holliday & Karatinos, P.L.*, 560 F.3d 1241, 1244 (11th Cir. 2009)).

rehabilitation, compliance, and fitness to practice bankruptcy law. Reinstatement of Attorney Stopa is conditioned upon Attorney Stopa demonstrating that he:

- a. Has provided this Court with a copy of this Suspension Order in his application for reinstatement;
- b. Served the U.S. Trustee by U.S.P.S. or personal delivery service with a copy of his application for reinstatement;
- c. Is a member in good standing with The Florida Bar;
- d. Is admitted to the United States District Court for the Middle District of Florida;
- e. Has complied with 11 U.S.C. § 526(c)(1) and (2) by refund and reimbursement to the chapter 13 debtor(s) for all fees, charges, costs, expenses, and actual damages in the 14 cited cases above where he either misrepresented the services that he would provide the debtor(s) or failed to provide the services that he informed the debtor(s) he would provide to them under the chapter 13 “soup-to-nuts” presumptively reasonable no-look fee provisions;¹⁹
- f. Has complied with 11 U.S.C. § 526(c)(5)(B) and paid a \$12,000.00 civil penalty to the United States Trustee; and
- g. Has obtained continuing legal education in the areas of bankruptcy law, bankruptcy practice, law firm management, and ethics sufficient to demonstrate a clear knowledge of the bankruptcy system and the rights and interests of debtors, creditors, and trustees.

10. Should Attorney Stopa seek to be admitted to practice in any other jurisdiction, he shall provide a copy of this Suspension Order in his application to that jurisdiction and serve a copy of his complete admission application to that jurisdiction upon the United States Trustee or United States Bankruptcy Administrator applicable to that jurisdiction.²⁰

¹⁹ See Order Establishing Presumptively Reasonable Debtor’s Attorney Fee in Chapter 13 Cases, amendments thereto, and subsequent amended orders in Misc. Proc. No. 07-mp-00002-MGW (Doc. Nos. 31, 33, 35, 37, 38, and 40).

²⁰ 28 U.S.C. § 581.

11. If Attorney Stopa is admitted to any other federal court or jurisdiction, he shall provide a copy of this Suspension Order to the applicable Clerk of Court or administrative and regulatory body.

12. In accordance with 11 U.S.C. §§ 329(b) and 526(c), the Chapter 13 Standing Trustees, Kelly Remick, Laurie Weatherford, and Jon Waage, shall make no further disbursements to Attorney Stopa or his law firm. Any funds that would have been disbursed to Attorney Stopa, if any, shall be disbursed on other allowed claims, which distribution may result in an increased distribution to general unsecured creditors. Refund checks, if any, shall be disbursed, distributed, and delivered directly to the respective debtor(s).

13. The Clerk of this Court shall:

- a. **REVOKE** and **TERMINATE** all PACER CM/ECF filing logins and passwords assigned to Attorney Stopa, the law office of Stopa Law Firm, P.A., n/k/a Stay In My Home, P.A., or any para-professional(s) that may have been issued a CM/ECF login and password with filing privileges associated with Attorney Stopa and/or Stopa Law Firm, P.A. n/k/a Stay In My Home, P.A., effective immediately upon the entry of this Order;
- b. Indicate in the PACER records that Attorney Stopa's association as an attorney in a case is **TERMINATED**;
- c. Record a copy of this Order in her judgment log maintained in accordance with Federal Rule of Bankruptcy Procedure 5003(c); and
- d. File a copy of this Order in all pending bankruptcy cases wherein Attorney Stopa is associated as an attorney.

Clerk's Office to serve order on:

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Clerk of the United States Court of Appeals for the Eleventh Circuit

Clerk of the United States District Court for the Middle District of Florida